
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

MARKETDIAL, INC.,

Plaintiff,

v.

APPLIED PREDICTIVE TECHNOLOGIES,
INC.,

Defendant.

**MEMORANDUM DECISION AND
ORDER DENYING JOINT MOTION TO
VACATE**

Case No. 2:23-cv-00477-JNP-JCB

District Judge Jill N. Parrish

Last summer, Plaintiff MarketDial, Inc., sought a declaratory judgment under the Declaratory Judgment Act that U.S. Patent No. RE49,562 (“the ’562 Patent”)—which Defendant Applied Predictive Technologies, Inc. (“APT”), intended to assert against MarketDial—was invalid and unenforceable. APT filed a partial motion to dismiss and asserted a counterclaim on the presumption that the patent was valid and enforceable. MarketDial filed a motion to dismiss the counterclaim.

On June 20, 2024, this court issued an order determining that the patent was invalid and granting MarketDial’s motion to dismiss APT’s counterclaim accordingly. No separate judgment accompanied this order. Now, as a condition of their settlement, the parties move to vacate the earlier order and dismiss all claims with prejudice.

The court **DENIES** their motion. The parties have provided no reason for vacating the order. For example, they have not explained how “the court has misapprehended the facts, a party’s position, or the controlling law.” *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir.

2000) (setting out the standard for assessing a motion to alter or amend judgment under Rule 59(e)). The court also **ORDERS** the parties to file a status update within 21 days of this order explaining whether the parties wish to dismiss the case or whether they wish the court to enter final judgment. If the parties do not timely respond, the court will enter final judgment.

Signed January 9, 2025.

BY THE COURT



Jill N. Parrish
United States District Court Judge